

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: 5/18/05

Division: County Attorney

**** 8:30 A.M. CLOSED ATTORNEY-CLIENT SESSION ****

Bulk Item: Yes ☐ No ☒

Department: County Attorney

AGENDA ITEM WORDING:

The Board will hold a Closed Attorney-Client Session of the BOCC on May 18, 2005 at 8:30 a.m. to discuss settlement negotiations or strategy sessions related to litigation expenditures in the case of *Monroe County v. Post, Buckley, Schuh & Jernigan*.

ITEM BACKGROUND:

The County sued its former engineering firm for professional malpractice as a result of erroneous cost estimates that Post Buckley prepared with respect to improvements to Card Sound Road. The County had relied on those estimates in its decision to issue bonds to finance the repairs. The actual bids came in substantially lower than the cost estimates which resulted in the bonds being issued unnecessarily. Through this suit, the County is attempting to recoup the costs it erroneously expended as a result of Post Buckley's error.

This matter was tried to a verdict in favor of the County in October 2001. That verdict was reversed on appeal due to an erroneous jury instruction. In August of 2003, the Third DCA remanded the case for a retrial, which is scheduled for June 6, 2005 in Key West. On April 4, 2005, Judge Payne denied Post Buckley's latest motion to dismiss.

Special litigation counsel Wayne Smith advised County staff to request the special session prior to the June 6, 2005 trial date in the event settlement discussions are productive. The only cost involved in a closed session would be the advertising costs and court reporter's appearance and transcription fee.

PREVIOUS RELEVANT BOCC ACTION:

The Board discussed this case at various times during its 10 year history and authorized the payment of attorney's fees as well as trial and appellate costs.

On April 20, 2005, the Board approved the scheduling of a Closed Attorney-Client Session of the BOCC on May 18, 2005.

CONTRACT/AGREEMENT CHANGES: N/A

STAFF RECOMMENDATIONS: Approval

TOTAL COST: @\$100.00

BUDGETED: Yes ☒ No ☐

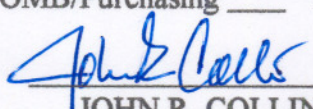
COST TO COUNTY: @\$100.00

SOURCE OF FUNDS: _____

REVENUE PRODUCING: Yes ☐ No ☒ **AMOUNT PER MONTH** _____ **Year** _____

APPROVED BY: County Atty  OMB/Purchasing _____ Risk Management _____

DIVISION DIRECTOR APPROVAL:

 04/29/05
JOHN R. COLLINS, COUNTY ATTORNEY

DOCUMENTATION: Included ☐ Not Required ☒

DISPOSITION: _____

AGENDA ITEM # _____

**BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY
NOTICE OF ATTORNEY-CLIENT CLOSED SESSION**

The Board of County Commissioners of Monroe County, Florida, pursuant to Section 286.011(8), Florida Statutes will hold a Closed Attorney-Client Session during a public meeting to be held on Wednesday, May 18, 2005, at 8:30 A.M., at the Key Largo Library, Tradewinds Shopping Center, 101485 Overseas Highway, Mile Marker 101, Key Largo, Florida.

Those persons attending the Closed Session will be the County Commissioners, County Administrator Thomas J. Willi, County Attorney John R. Collins, Assistant County Attorney Bob Shillinger, litigation counsel for the County Wayne Smith, Esq., and a certified court reporter. The purpose of the Closed Session concerns pending litigation in the case of Monroe County v. Post, Buckley, Schuh & Jernigan in which the County is presently a party. At the end of this Closed Session, the public portion of the meeting will be opened.

Dated at Key West, Florida, this 20th day of April, 2005.

Office of the County Attorney

Publication dates

<i>Reporter</i>	5/6/2005
<i>Keynoter</i>	5/7/2005
<i>Key West Citizen</i>	5/8/2005

cc: Kathy Fegers
Monroe County Court Reporters